

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 Roderick L. Hymon,

Case No. 2:23-cv-02101-CDS-BNW

4 Plaintiff

**Order Adopting Report and
Recommendation and Closing Case**

5 v.

6 Nicole Sitre,

[ECF Nos. 3, 10]

7 Defendant

9 After screening plaintiff Roderick Hymon's complaint, Magistrate Judge Brenda Weksler
10 issued an order dismissing some of Hymon's claims with leave to amend, and a recommendation
11 that Hymon's surviving claims be dismissed with prejudice. Order, ECF No. 3. Because this
12 order was returned as undeliverable (Notice, ECF No. 6), Hymon was ordered to update his
13 address (ECF No. 7). That order was also returned as undeliverable. ECF No. 8. Because of this, I
14 sua sponte extended plaintiff Roderick Hymon's deadline to file any objections to Magistrate
15 Judge Brenda Weksler's order and report and recommendation from March 19, 2024 to May 6,
16 2024. Order, ECF No. 9. Hymon was warned that failure to file objections would result in me
17 adopting the R&R without a de novo review. *Id.* In that same order, I sua sponte extended
18 Hymon's deadline to file an amended complaint to cure the deficiencies identified in Judge
19 Weksler's order from March 22, 2024 to May 13, 2024. *Id.* That order was mailed to the Clark
20 County Detention Center ("CCDC"), where the CCDC inmate search revealed that he was. *Id.* at
21 n.l.

22 Hymon has failed to file any objections or an amended complaint and has not taken any
23 action in this case since December 2023. Consequently, Judge Weksler issued a second R&R
24 that Hymon's complaint be dismissed without prejudice and to close this case. R&R, ECF No.
25 10. This order was also returned as undeliverable. Notice, ECF No. 11. Hymon did not file any
26 objections to the second R&R and the time to do so has passed.

1 The Ninth Circuit has recognized that a district court is not required to review a
 2 magistrate judge's R&R where no objections have been filed. *United States v. Reyna-Tapia*, 328 F.3d
 3 1114, 1121 (9th Cir. 2003). I nonetheless reviewed Judge Weksler's previous order and R&Rs, and
 4 the docket in this matter, and find that dismissal is prudent.

5 Seemingly, Hymon has been released from CCDC because orders mailed to him at CCDC
 6 have been returned as undeliverable. See Notice, ECF Nos. 6, 11. But Hymon failed to immediately
 7 file a written notification of any change of mailing address as required by Local Rule IA 3-1. And
 8 “[f]ailure to comply with [Local Rule IA 3-1] may result in the dismissal of the action, entry of
 9 default judgment, or other sanctions as deemed appropriate by the court.” LR IA 3-1. Further, it
 10 is well established that district courts have the authority to dismiss an action based on a party’s
 11 failure to prosecute, failure to obey a court order, or failure to comply with local rules. Fed. R.
 12 Civ. P. 41(b); *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance
 13 with local rule); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to
 14 comply with court order). Dismissal is warranted here because Hymon not only failed to comply
 15 with Judge Weksler’s orders, but he also failed to comply with Local Rule IA 3-1. Furthermore, I
 16 agree with Judge Weksler’s finding that the *Malone* factors¹ weigh in favor of dismissal. See R&R,
 17 ECF No. 10.

18 Accordingly, I adopt the first R&R in its entirety and dismiss Hymon’s surviving claims
 19 with prejudice. I also adopt the second R&R in its entirety and dismiss Hymon’s complaint
 20 without prejudice and close this case.

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 26 ¹ The Ninth Circuit has identified five factors a court must weigh in determining whether dismissal is
 appropriate. *Malone*, 833 F.2d at 130; see also *See Leon v. IDX Sys. Corp.*, 464 F.3d 951, 958 n.4 (9th Cir. 2006)
 (the same five-factors are used to determine whether dismissal is warranted under Fed. R. Civ. P. 41(b)).

Conclusion

IT IS THEREFORE ORDERED that the R&Rs [ECF Nos. 3, 10] are adopted in full.

IT IS FURTHER ORDERED that the complaint is dismissed without prejudice. The

4 Clerk of Court is kindly directed to close this case.

Dated: June 11, 2024

~~Cristina D. Silva
United States District Judge~~